IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 6TH JUNE 2007 / 16TH JYAISHTA 1929

WP(C).No. 14415 of 2004(N)

PETITIONER:

M.J.SIMON,S/O.UTHUPPU,VELLAPPALLILAYA
MARAMANGALATH,
MANNANAM KARA MANNANAM P.O.,ATHIRAMPUZHA,KOTTAYAM.

BY ADV. SRI.RAJEEV V.KURUP

RESPONDENTS:
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1. JOSE THOMAS,MANNOOR MARAMANGALATH,
MANNANAM P.O.,
ATHIRAMPUZHA, KOTTAYAM.

2. DEVASIA VARGHESE,
KARIAMPUZHA ARACKAL, DO. DO. DO.

3. JEEGEKUMARAN,
KUNNATHPARAMBIL HOUSE, DO. DO.

4. SUDARSANAN NARAYANAN,
CHANGAMPALLIL HOUSE, DO. DO. DO.

BY ADV. SRI.M.J.THOMAS -- R2

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 14415/2004 N

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE ORDER DT. 6/1/04 IN IA NO. 1645/03 IN OS NO. 82/02 BEFORE THE MUNSIFF'S COURT, ETTUMANOOR.

EXT.P2. COPY OF THE ORDER DT. 21/2/2004 IN IA NO. 134/04 IN OS NO. 82/02 BEFORE THE MUNSIFF COURT ETTUMANOOR.

True copy

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PIUS C. KURIAKOSE,J.

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W.P.(C) No.14415 of 2004

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Dated: 6th June, 2007

JUDGMENT

I do no find any warrant for invoking the visitorial jurisdiction of this court under Article 227 of the Constitution for correcting Ext.P2 order passed by the learned Munsiff by which a written statement filed by the respondents was received on condition that cost should be paid. Learned counsel for the petitioner submits that by Ext.P1 the learned Munsiff had dismissed a like application filed earlier by the defendants. Ext.P1 having attained finality, it was not open to the learned Munsiff to entertain I.A.No.134/04 and issue Ext.P2 order. The submission of the learned counsel for the petitioner is too technical to receive acceptance. The policy of law is to facilitate that adjudication of all causes on its merits. One of the grounds raised in the Writ Petition is that the written statement was filed beyond 90 days of service of summons. That issue is covered in favour of the respondents in view of the judgment of the Supreme Court in **Kailash v. Nanhku** [2005(2) KLT 623(SC)]. At any rate, there is no warrant for invocation of the supervisory jurisdiction of this court

under Article 227 of the Constitution. The Writ Petition is accordingly dismissed. No costs.

srd **PIUS C.KURIAKOSE, JUDGE**